## REMARKS

This Application has been carefully reviewed in light of the Office Action dated August 15, 2007 ("Office Action"). In the Office Action, the Examiner identifies Claims 1, 2, 4-17, 19-32, and 34-47 as pending in the Application. The Examiner rejected Claims 1, 2, 4-17, 19-32, and 34-47. In this response, Applicants add new independent Claim 49. As described below, Applicants believe all claims to be allowable over the cited references. Therefore, Applicants respectfully request reconsideration and full allowance of all pending claims.

## Independent Claim 48

Applicants note that in the previous Response submitted on May 29, 2007, concurrently with a Request for Continued Examination, Applicants added new independent Claim 48. However, the subsequent *Office Action* dated August 15, 2007, fails to address new independent Claim 48. Claim 48 is not listed as either a pending or a rejected claim on page 1 of the Office Action. Additionally, there is no rejection of Claim 48 in the following pages of the Office Action. Because Claim 48 is not rejected and because Claim 48 recites features that are distinguishable from the art, Applicants submit that Claim 48 is allowable.

## Section 102 Rejection

The Examiner rejects Claims 1, 2, 4, 5, 13, 14, 16, 17, 19, 20, 28, 29, 31, 32, 34, 35, 43, 44, and 46 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,778,187 issued to Monteiro et al. ("*Monteiro*"). For the following reasons, Applicants respectfully request reconsideration of Claims 1, 2, 4, 5, 13, 14, 16, 17, 19, 20, 28, 29, 31, 32, 34, 35, 43, 44, and 46.

Independent Claim 1 recites:

> A method for authenticated access to multicast traffic, comprising:
> receiving an Internet group management protocol request at an access network router operable to authenticate a plurality of requests received from a plurality of customer premise systems, the received request identifying a user requesting to join an IP multicast channel, the IP

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 multicast channel selected from a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis;

  authenticating access privileges of the user to the multicast channel; and

  disallowing the request in response to at least an unsuccessful authentication.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131. In addition, "[t]he identical invention <u>must</u> be shown in as complete detail as is contained in the . . . claims" and "[t]he elements <u>must</u> be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); MPEP § 2131 (*emphasis added*). Whether considered alone or in combination with any other cited references, Applicants respectfully submit that *Monteiro* does not disclose, teach, or suggest each and every limitation recited in Applicants' Claim 1.

 For example, Applicants respectfully submit that *Monteiro* does not disclose, teach, or suggest "receiving an Internet group management protocol request at an access network router, the received request identifying a user requesting to join an IP multicast channel . . . selected from a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis," as recited in amended Claim 1. In the *Office Action*, the Examiner identifies Column 6, lines 6-55 of *Monteiro* as disclosing the recited claim language. However, the cited portion of *Monteiro* merely discloses that a "Media Server is directly connected to the same physical network as the User" and that multicast hardware "can be used to transmit the packet stream to all Users listening at the time on that network." (Column 6, lines 6-9). *Monteiro* further discloses that "**any** computer directly connected to the local network can receive that packet." (Column 6, lines 13-14, emphasis added). Specifically, under the system of *Monteiro* "each router maintains group membership lists for **<u>each interface that it is connected to</u>** and will forward packets across the Internet to other routers such that **<u>all</u>** Users within the global group eventually receive a copy of the packet." (Column 6, lines 31-35, emphasis added). For clarification of the term "group membership," *Monteiro* stats that "[t]he group in this case is the set of all Users who are listening to a given

channel at a given time." (Column 5, lines 61-63). There is no indication in *Monteiro* that the group is a group of subscribers or that channels are offered as a "bundle of IP multicast channels . . . as a multicast package on a subscription basis," as recited in amended Claim 1.

Regarding the transmission of the requested multicast content, *Monteiro* merely discloses that a user must first install User software on his/her computer and register a name and password. (Column 13, lines 9-45). After a successful login by the User, "the User software then immediately sends a Channel Guide Request Object to the Administration Server and a Channel Guide Object is returned." (Column 13, lines 42-45). According to *Monteiro*, the "Channel Guide Request Object" "conveys a request for analytical and descriptive information about an item uniquely identified by the contained moniker." (Table 1, Column 9, lines 12-18). Thus, *Monteiro* only discloses that the user requests a channel upon login. *Monteiro* does not disclose, teach, or suggest "receiving an Internet group management protocol request at an access network router, the received request identifying a user requesting to join an IP multicast channel . . . selected from a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis," as recited in amended Claim 1. Accordingly, Applicants respectfully submit that Claim 1 is patentable over *Monteiro*.

As further evidence of the novelty of the recited claim language, Applicants note that throughout prosecution of this case, Applicants have successfully argued this same claim language on at least four other occasions. On April 4, 2005, Applicants persuasively argued that this claim language was not disclosed in the proposed *Dillon-Novaes* combination. On August 11, 2005, Applicants persuasively argued that this claim language was not disclosed in *Saito*. On December 22, 2005, Applicants persuasively argued that this claim language was not disclosed in *Shannon*. On May 12, 2006, Applicants persuasively argued that this claim language was not disclosed in *Unitt*. Applicants respectfully submit that the failure of five cited references in four different rejections to disclose this language further evidences the patentability of the claimed features. To date, no reference cited by the Examiner has disclosed, taught, or suggested "receiving an Internet group management protocol request at

an access network router, the received request identifying a user requesting to join an IP multicast channel . . . selected from a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis," as recited in amended Claim 1.

For at least these reasons Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2, 4, 5, 13, and 14 that depend from independent Claim 1.

Independent Claims 16, 31, and 46 recite certain features and operations that are similar to the features of Claim 1. For example, Claim 16 recites "means for receiving an Internet group management protocol request at an access network router, the received request identifying a user requesting to join an IP multicast channel, the IP multicast channel selected from a bundle of IP multicast channels offered for receipt the bye user as a multicast package on a subscription basis." As another example, Claim 31 recites "logic operable to receive . . . an Internet group management protocol request for a user to join an IP multicast channel selected from a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis." Claim 46 recites "authenticating access privileges of a user to the IP multicast channel upon receiving an Internet group management protocol request at an access network router . . . the received request identifying a user requesting to join an IP multicast channel to receive the premium video content, the IP multicast channel selected from a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis." Accordingly, for reasons similar to those discussed above with regard to Claim 1, Applicants respectfully submit that *Monteiro* does not disclose, teach, or suggest each and every element recited in Applicants' Claims 16, 31, and 46.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 16, 31, and 46, together with Claims 17, 19, 20, 28, and 29 that depend on Claim 16 and Claims 32, 34, 35, 43, and 44 that depend on Claim 31.

## Section 103 Rejections

The Examiner rejects Claims 6-12, 15, 21-27, 30, 36-42, 45, and 47 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of *Monteiro* with U.S. Patent No. 6,219,790 B1 issued to Lloyd et al. (*"Lloyd"*), U.S. Patent No. 6, 466,571 B1 issued to Dynarski et al. (*"Dynarski"*), U.S. Patent No. 6,718,387 B1 issued to Gupta (*"Gupta"*)[1], U.S. Patent No. 6,026,441 issued to Ronen (*"Ronen"*), and U.S. Patent No. 5,671,225 issued to Hooper et al. (*"Hooper"*). For the following reasons, Applicants respectfully request reconsideration of Claims 6-12, 15, 21-27, 30, 36-42, 45, and 47.

### 1.    Claims 6-9, 21-24, 36-39

In the *Office Action*, the Examiner rejects Claims 6, 7, 21, 22, 36, and 37 over the proposed *Monteiro-Lloyd* combination. The Examiner rejects Claims 8, 23, and 38 over the proposed *Monteiro-Dynarski* combination. The Examiner rejects Claims 9, 24, and 39 over the proposed *Monteiro-Gupta* combination.

Claims 6-9, 21-24, and 36-39 depend from independent Claims 1, 16, and 31, respectively, which Applicants have shown above to be allowable. Applicants respectfully submit that dependent Claims 6-9, 21-24, and 36-39 are allowable at least because they incorporate the features and operations of their respective independent claims. Applicants have not provided detailed arguments with respect to Claims 6-9, 21-24, and 36-39. However, Applicants remain ready to do so if it becomes appropriate. Applicants respectfully request reconsideration and allowance of Claims 6-9, 21-24, and 36-39.

Moreover, assuming for the purposes of argument only that the proposed combinations disclose the features of Claims 6-9, 21-24, and 36-39 (which Applicants do not admit), the rejections of Claims 6-9, 21-24, and 36-39 are improper at least the Examiner has

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[1] In the Office Action, the Examiner actually states that that Claims 9, 24, and 39 are rejected over *Monteiro* in view of "Unitt et al U.S. Patent No. 6,718,387 B1." However, Applicants believe that the Examiner actually intended to state that the claims are rejected over *Monteiro* in view of "Gupta et al U.S. Patent No. 6, 718, 387." In previous rejections of these claims, the Examiner relied on *Gupta*, and U.S. Patent No. 6,718,387 issued to Gupta et al. rather than to Unitt et al.

not sufficiently shown that one of ordinary skill in the art at the time of invention would have been motivated to make the proposed combinations. The mere fact that references <u>can</u> be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). The showing must be clear and particular. *See, e.g., C.R. Bard v. M3 Sys., Inc.*, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998).

The Examiner has not provided adequate evidence that one of ordinary skill in the art at the time of the present invention would have been motivated to modify the multicasting apparatus disclosed in *Monteiro* to include the AAA server disclosed in *Lloyd*, the request of *Dynarski*, or the public multicast channel of *Gupta*. For example, with regard to Claims 6-7, 21-22, and 36-37, specifically, the Examiner merely speculates "it would have been obvious" to modify *Monteiro* to include the AAA server of *Lloyd* since "[t]he AAA server would have been used to authenticate access privileges of the user to the multicast channel." (Office Action, pages 7-8). With respect to Claims 8, 23, and 38, the Examiner merely states that "it would have been obvious" to modify *Monteiro* "so that the request would have included an IP address of the user device" like *Dynarski* "because it ensures only authorized devices have access to the service available on the network." (*Office Action*, pages 8-9). With respect to Claims 9 24, and 39, the Examiner merely states that "it would have been obvious" to modify *Monteiro* "so that it would have been determined whether the multicast channel comprised a public multicast channel" as taught in *Gupta* "because this ensures that if the multicast is private a check is made to determine whether the join request submitted is a duplicate of a pervious request and thus prevents any unauthorized users to gain access with a duplicated request." (*Office Action*, pages 9-10).

It appears that the Examiner has merely proposed alleged advantages of combining *Monteiro* with *Lloyd*, *Dynarski*, and *Gupta* (advantages which Applicants do not admit could even be achieved by combining these references in the manners the Examiner has proposed). While the Examiner has, in some instances, cited portions of *Lloyd*, *Dynarski*, and *Gupta* that tout an advantage of the respective systems and techniques, the Examiner has not pointed to

any portions of the cited references that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to incorporate the AAA server disclosed in *Lloyd*, the request of *Dynarski*, or the public multicast channel of *Gupta* in the multicasting apparatus disclosed in *Monteiro*. In other words, the alleged advantage of the systems disclosed in the secondary references do not provide an explanation as to: (1) why it would have been obvious to one of ordinary skill in the art at the time of Applicants' invention (*without using Applicants' claims as a guide*) to modify the particular techniques disclosed in *Monteiro* with the cited disclosures; (2) how one of ordinary skill in the art at the time of Applicants' invention would have actually done so; and (3) how doing so would purportedly meet the limitations of Claims 6-9, 21-24, and 36-39. Indeed, if it were sufficient for Examiners to merely point to a purported advantage of one reference and conclude that it would have been obvious to combine of modify that reference with other references simply based on that advantage (which, as should be evident from the case law discussed above, it certainly is not), then virtually any two or more references would be combinable just based on the fact the one reference states an advantage of its system. Of course, as the Federal Circuit has made clear and as discussed above, that is not the law.

Furthermore, the Examiner's speculation does not provide the suggestion or motivation required to make the proposed combination and instead simply relies upon hindsight. It is improper for an Examiner to use hindsight having read the Applicants' disclosure to arrive at an obviousness rejection. *In re* Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). In particular, it is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re* Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Because the Examiner has merely used Applicants' claims as an instruction manual to piece together the multicasting apparatus disclosed in *Monteiro* with the AAA server disclosed in *Lloyd*, the request of *Dynarski*, or the public multicast channel of *Gupta*, Applicants respectfully submit that the proposed *Monteiro-Lloyd*, *Monteiro-Dynarski*, and *Monteiro-Gupta* combinations are improper and should not be used here to reject Applicants' claims.

For at least these reasons, Applicants request reconsideration and allowance of Claims 6-7, 21-22, and 36-37.

2.    **Claims 10-12, 25-27, and 40-42**

The Examiner rejects Claims 10-12, 25-27, and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over the proposed *Monteiro-Ronen* combination.

A.    **The Claims are Allowable over *Monteiro-Ronan***

Claims 10-12, 25-27, and 40-42 depend from independent Claims 1, 16, and 31, respectively, which Applicants have shown above to be allowable. Applicants respectfully submit that dependent Claims 10-12, 25-27, and 40-42 are allowable at least because they each incorporate the features and operations of their respective independent claims. Additionally, Applicants respectfully submit that the proposed *Monteiro-Ronen* combination does not disclose, teach, or suggest each and every limitation recited in Applicants' Claims 10-12, 25-27, and 40-42. As examples, Applicants respectfully submit that the proposed combinations of references does not disclose, teach, or suggest the following features recited in Applicants' claims:

- "determining whether the user is logged in to a service provider providing the multicast channel" and "unsuccessfully authenticating access privileges of the user to the multicast channel in response to at least the user not logged in to the service provider," as recited in Claims 10 and 12 (and similarly recited in Claims 25, 27, 40, and 42; and

- "determining whether the user is logged in to a service including the multicast channel" and "unsuccessfully authenticating access privileges of the user to the multicast channel in response to at least the user not logged in to the

service including the multicast channel," as recited in Claims 11-12 (and similarly recited in Claims 26-27, and 41-42.

With respect to Claims 10-12, 25-27, and 40-42, the Examiner acknowledges that the newly relied upon reference of *Monteiro* does not disclose, teach, or suggest the recited features and operations. (Office Action, page 10). Rather, the Examiner relies upon *Ronen* for disclosure of the elements of Claims 10-12, 25-27, and 40-42.

In previous Responses to Office Actions mailed April 4, 2005, August 11, 2005, December 22, 2005, and May 12, 2006, Applicants demonstrated that *Ronen* does not disclose the claimed features. In the Office Actions mailed on June 21, 2005, October 4, 2005, March 14, 2006, and August 15, 2007, the Examiner did not respond to these arguments made by Applicants. Because the Examiner changed the primary reference in each of these rejections, the Examiner said that Applicants' arguments were "moot in view of the new ground(s) of rejection." However, as the Examiner continues to rely upon *Ronen* for disclosure of the elements of Claims 10-12, 25-27, and 40-42, Applicants' previous arguments continue to have merit. Thus, Applicants reiterate Applicants' arguments made with regard to *Ronen* now.

Specifically, Applicants submit that *Ronen* merely discloses a method for "establishing a connection on the Internet between applications associated with two or more client terminals." (Column 1, lines 7-10). *Ronen* generally discloses that a connection can be established "on the Internet between two client applications on client terminals if the client terminal initiating the connection knows the IP address of the client terminal at the terminating end of the connection." (Column 1, lines 41-45). Such connections may be established for purposes such as Internet Telephony and teleconferencing. (Column 2, lines 1-3). Because the method disclosed in *Ronen* allows an "initiating first user at a client terminal . . . to establish a connection over the Internet with a destination user's client terminal [by using[ the destination user's e-mail address (mary@def.com) to determine the domain name of that user's [Internet Access Service Provider (IASP)] (def.com)" (Column 2,

lines 3-8), *Ronen* dispenses with the requirement that the initiating user know the IP address of the destination client.

More specifically, "[w]hen the [destination] user of client terminals 101 logs onto the Internet through IASP 102, and provides his or her identity through a logon and identification procedure, [destination] client terminal 101 is assigned a temporary IP address that is used for the current session." (Column 2, lines 54-58). "Thus, a database 122, associated with IASP 102, stores a mapping of each client terminal then connected to IASP 102 and its user, and the IP address assigned to that terminal." (Column 2, lines 58-61). When a initiating user then "wishes to establish a connection over the Internet with [the] destination user's client terminal . . . a domain name server (DNS) is queried to obtain the IP address of that IASP." (Column 2, lines 3-10). "The client terminal of the initiating user then sends a query to that IASP's IP address to obtain the IP address that that IASP has currently assigned to the destination user (mary)." (Column 2, lines 10-13). "If that second user is logged on, an entry will exist in a database at the destination user's IASP that associates that user (mary) with the IP address assigned by the IASP to that user's client terminal for the current session." (Column 2, lines 13-17). Thus, by accessing its associated database, IASP 102 "can determine whether a particular one its subscribers is currently logged on." (Column 2, lines 64-66). "If the destination user is logged on, the application running on the initiating user's client terminal then establishes a connection over the Internet to the destination user's client terminal using the determined IP address." (Column 2, lines 21-25). Accordingly, the *Ronen* system is merely used to identify an IP address such that a communication session can be established between two client terminals associated with different end users. Because *Ronen* is not at all related to providing multicast communications, *Ronen* does not disclose, teach, or suggest determining whether the user is logged in to a service and/or service provider providing the multicast channel and then unsuccessfully authenticating access privileges of the user to the multicast channel in response to at least the user not logged in to the service and/or service provider," as recited in Claims 10-12, 25-27, and 40-42. The recited features are completely absent from the disclosure of *Ronen*.

For at least these reasons, Applicants request reconsideration and allowance of Claims 10-12, 25-27, and 40-42.

### B.      The *Monteiro-Ronan* Combination is Improper

Additionally, Applicants respectfully submit that the rejection of Claims 10-12, 25-27, and 40-42 is improper at least the Examiner has not sufficiently shown that one of ordinary skill in the art at the time of invention would have been motivated to make the proposed combination. Applicants reiterate the standard discussed above for combining references. With respect to Claims 10-12, 25-27, and 40-42, the Examiner has not provided adequate evidence that one of ordinary skill in the art at the time of the present invention would have been motivated to modify the multicasting apparatus disclosed in *Monteiro* to include the authentication procedures disclosed in *Ronen*. The Examiner merely speculates "it would have been obvious" to modify the multicasting apparatus disclosed in *Monteiro* to include the teachings of *Ronen* "so that it would have been determined whether the user was logged in to a service provider that provided the multicast channel." (*Office Action*, page 10). As motivation for such a modification, the Examiner states that "ensuring that the user is logged on and that it is a known user, it enhances security so that a third party does not try and intercept services." (*Office Action*, page 10).

It appears that the Examiner has merely proposed alleged advantages of combining *Monteiro* with *Ronen* (advantages which Applicants do not admit could even be achieved by combining these references in the manner the Examiner proposes). The Examiner has not pointed to any portions of the cited references, however, that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to incorporate the multicasting apparatus disclosed in *Monteiro* with the authentication procedures of *Ronen*. In other words, the alleged advantages of the systems disclosed in *Ronen* (as purported by the Examiner) does not provide an explanation as to: (1) why it would have been obvious to one of ordinary skill in the art at the time of Applicants' invention (*without using Applicants' claims as a guide*) to modify the particular techniques disclosed in *Monteiro* with the cited disclosure in *Ronen*; (2) how one of ordinary skill in the art at the time of Applicants'

invention would have actually done so; and (3) how doing so would purportedly meet the limitations of Claims 10-12, 25-27, and 40-42. Again, if it were sufficient for Examiners to merely point to a purported advantage of one reference and conclude that it would have been obvious to combine of modify that reference with other references simply based on that advantage (which, as should be evident from the case law discussed above, it certainly is not), then virtually any two or more references would be combinable just based on the fact the one reference states an advantage of its system. Of course, as the Federal Circuit has made clear and as discussed above, that is not the law.

Furthermore, the Examiner's speculation does not provide the suggestion or motivation required to make the proposed combination and instead simply relies upon hindsight. It is improper for an Examiner to use hindsight having read the Applicants' disclosure to arrive at an obviousness rejection. *In re* Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). In particular, it is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re* Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Because the Examiner has merely used Applicants' claims as an instruction manual to piece together the multicasting apparatus disclosed in *Monteiro* with the authentication procedures disclosed in *Ronen*, Applicants respectfully submit that the proposed *Monteiro-Ronen* combination is improper and should not be used here to reject Applicants' claims.

For at least these reasons, Applicants request reconsideration and allowance of Claims 10-12, 25-27, and 40-42.

### 3.  Claims 15, 30, and 45

The Examiner rejects Claims 15, 30, and 45 under 35 U.S.C. § 103(a) as being unpatentable over *Monteiro* as applied to Claims 1, 16, and 31 above, and further in view of U.S. Patent No. 5,671,225 issued to Hooper et al. (*"Hooper"*).

Claims 15, 30, and 45 depend from independent Claims 1, 16, and 31, respectively, which Applicants have shown above to be allowable. Applicants respectfully submit that dependent Claims 15, 30, and 45 are allowable at least because of their dependency. Applicants have not provided detailed arguments with respect to Claims 15, 30, and 45. However, Applicants remain ready to do so if it becomes appropriate. Applicants respectfully request reconsideration and allowance of Claims 15, 30, and 45.

Applicants respectfully submit that the rejection of Claims 15, 30, and 45 is improper at least the Examiner has not sufficiently shown that one of ordinary skill in the art at the time of invention would have been motivated to make the proposed combination. Applicants reiterate the standard for combining references that is discussed above. With respect to Claims 15, 30, and 45, the Examiner has not provided adequate evidence that one of ordinary skill in the art at the time of the present invention would have been motivated to modify the multicasting apparatus disclosed in *Monteiro* to include the techniques disclosed in *Hooper*. The Examiner merely speculates "it would have been obvious" to modify the multicasting apparatus disclosed in *Monteiro* to include the teachings of *Hooper* "so that it would have been determined if authentication had been enabled at an access router receiving the request." (*Office Action*, page 11). As motivation for such a modification, the Examiner states that "by doing authentication on a proxy (i.e. router) it reduces the chances of the service provider of getting attacked by a third party." (*Office Action*, pages 11-12).

It appears that the Examiner has merely proposed alleged advantages of combining *Monteiro* with *Hooper* (advantages which Applicants do not admit could even be achieved by combining these references in the manner the Examiner proposes). The Examiner has not pointed to any portions of the cited references, however, that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to incorporate the multicasting apparatus disclosed in *Monteiro* with the techniques disclosed in *Hooper*. In other words, the alleged advantages of the systems disclosed in *Hooper* (as purported by the Examiner) does not provide an explanation as to: (1) why it would have been obvious to one of ordinary skill in the art at the time of Applicants' invention (***without using Applicants'***

*claims as a guide*) to modify the particular techniques disclosed in *Monteiro* with the cited disclosure in *Hooper*; (2) how one of ordinary skill in the art at the time of Applicants' invention would have actually done so; and (3) how doing so would purportedly meet the limitations of Claims 15, 30, and 45. Again, if it were sufficient for Examiners to merely point to a purported advantage of one reference and conclude that it would have been obvious to combine of modify that reference with other references simply based on that advantage (which, as should be evident from the case law discussed above, it certainly is not), then virtually any two or more references would be combinable just based on the fact the one reference states an advantage of its system. Of course, as the Federal Circuit has made clear and as discussed above, that is not the law.

Furthermore, the Examiner's speculation does not provide the suggestion or motivation required to make the proposed combination and instead simply relies upon hindsight. It is improper for an Examiner to use hindsight having read the Applicants' disclosure to arrive at an obviousness rejection. *In re* Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). In particular, it is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re* Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Because the Examiner has merely used Applicants' claims as an instruction manual to piece together the multicasting apparatus disclosed in *Monteiro* with the authentication procedures disclosed in *Hooper* Applicants respectfully submit that the proposed *Monteiro-Hooper* combination is improper and should not be used here to reject Applicants' claims.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 15, 30, and 45.

4.     **Claim 47**

The Examiner rejects Claim 47 under 35 U.S.C. § 103(a) as being unpatentable over *Monteiro* in view of *Ronen*.

A.     **Claim 47 is Allowable over *Monteiro-Ronan***

First, Applicants respectfully submit the proposed *Monteiro-Ronen* combination does not disclose, teach, or suggest each and every limitation recited in Applicants' Claim 47. For example, Claim 47 recites "determining whether the user is logged in to a service provider providing a service including the IP multicast channel" or "determining whether the user is logged in to the service including the IP multicast channel" and "unsuccessfully authenticating access privileges of the user to the IP multicast channel in response to at least one of determining the user is not logged in to the service provider and determining the user is not logged in to the service." With respect to the above recited features and operations, the Examiner continues to rely upon the disclosure of *Ronen*. Applicants have shown above with respect to Claims 10-12, 25-27, and 40-42, however, that *Ronen* does not disclose, teach, or suggest the recited features and operations.   To the contrary, *Ronen* merely discloses a method for "establishing a connection on the Internet between applications associated with two or more client terminals" and is not at all related to the provisioning of multicast communications.   (Column 1, lines 7-10).   Accordingly, for reasons similar to those discussed above with regard to Claims 10-12, 25-27, and 40-42, Applicants respectfully submit that the proposed *Monteiro-Ronen* combination does not disclose, teach, or suggest each and every limitation recited in Claim 47.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 47.

B.     **The *Monteiro-Ronen* Combination is Improper**

Additionally, Applicants respectfully submit that the proposed *Monteiro-Ronen* combination is improper. Applicants discuss the impropriety of this combination above with respect to Claims 10-12, 25-27, and 40-42. For the same reasons that the proposed *Monteiro-*

*Ronen* combination is improper with respect to these claims, Applicants contend that the proposed *Monteiro-Ronen* combination is improper with respect to independent Claim 47.

Specifically, Applicants contend that the Examiner has not provided adequate evidence that one of ordinary skill in the art at the time of the present invention would have been motivated to modify the multicasting apparatus disclosed in *Monteiro* to include the authentication procedures disclosed in *Ronen*. The Examiner merely speculates "it would have been obvious" to modify the multicasting apparatus disclosed in *Monteiro* to include the teachings of *Ronen* "so that it would have been determined whether the user was logged in to a service provider that provided the multicast channel." (Office Action, page 13). As motivation for such a modification, the Examiner states that "ensuring that the user is logged on and that it is a known user, it enhances security so that a third party does not try and intercept services." (Office Action, page 12).

Again, it appears that the Examiner has merely proposed alleged advantages of combining *Monteiro* with *Ronen* (advantages which Applicants do not admit could even be achieved by combining these references in the manner the Examiner proposes). The Examiner has not pointed to any portions of the cited references, however, that would teach, suggest, or motivate one of ordinary skill in the art at the time of invention to incorporate the multicasting apparatus disclosed in *Monteiro* with the authentication procedures of *Ronen*. In other words, the alleged advantages of the systems disclosed in *Ronen* (as purported by the Examiner) do not provide an explanation as to: (1) why it would have been obvious to one of ordinary skill in the art at the time of Applicants' invention (*without using Applicants' claims as a guide*) to modify the particular techniques disclosed in *Monteiro* with the cited disclosure in *Ronen*; (2) how one of ordinary skill in the art at the time of Applicants' invention would have actually done so; and (3) how doing so would purportedly meet the limitations of Claim 47. As stated above, if it were sufficient for Examiners to merely point to a purported advantage of one reference and conclude that it would have been obvious to combine of modify that reference with other references simply based on that advantage (which, as should be evident from the case law discussed above, it certainly is not), then

virtually any two or more references would be combinable just based on the fact the one reference states an advantage of its system. Of course, as the Federal Circuit has made clear and as discussed above, that is not the law.

The Examiner's speculation, however, does not provide the suggestion or motivation required to make the proposed combination and instead simply relies upon hindsight. It is improper for an Examiner to use hindsight having read the Applicants' disclosure to arrive at an obviousness rejection. *In re* Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). In particular, it is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re* Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Because the Examiner has merely used Applicants' claims as an instruction manual to piece together the multicasting apparatus disclosed in *Monteiro* with the authentication procedures disclosed in *Ronen*, Applicants respectfully submit that the proposed *Monteiro-Ronen* combination is improper and should not be used here to reject Applicants' claim.

For at least these additional reasons, Applicants respectfully request reconsideration and allowance of Claim 47.

**New Claim 49**

New Claim 49 has been added and is fully supported by the original specification. No new matter has been added. New Claim 49 recites:

> A method for authenticated access to multicast traffic, comprising:
> receiving an Internet group management protocol request at an access network router operable to authenticate a plurality of requests received from a plurality of customer premise systems, the received request identifying a user requesting to join a selected IP multicast channel;
> authenticating access privileges of the user to the multicast channel by determining if the selected IP multicast channel is within a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis; and

disallowing the request in response to determining that the selected
IP multicast channel is not within the bundle of IP multicast channels.

Whether considered alone or in combination with any other cited references, Applicants respectfully submit that *Monteiro* does not disclose, teach, or suggest each and every limitation recited in Applicants' Claim 49.

For example, Applicants respectfully submit that *Monteiro* does not disclose, teach, or suggest "authenticating access privileges of the user to the multicast channel by determining if the selected IP multicast channel is within a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis" and "disallowing the request in response to determining that the selected IP multicast channel is not within the bundle of IP multicast channels," as recited in Claim 49. In the *Office Action* and with respect to independent Claim 1, the Examiner identifies Column 6, lines 6-55 of *Monteiro* as disclosing "a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis." However, the cited portion of *Monteiro* merely discloses that a "Media Server is directly connected to the same physical network as the User" and that multicast hardware "can be used to transmit the packet stream to all Users listening at the time on that network." (Column 6, lines 6-9). *Monteiro* further discloses that "**any** computer directly connected to the local network can receive that packet." (Column 6, lines 13-14, emphasis added). Specifically, under the system of *Monteiro* "each router maintains group membership lists for **each interface that it is connected to** and will forward packets across the Internet to other routers such that **all** Users within the global group eventually receive a copy of the packet." (Column 6, lines 31-35, emphasis added). For clarification of the term "group membership," *Monteiro* stats that "[t]he group in this case is the set of all Users who are listening to a given channel at a given time." (Column 5, lines 61-63). There is no indication in *Monteiro* that the group is a group of subscribers or that channels are offered as a "bundle of IP multicast channels . . . as a multicast package on a subscription basis," as recited in amended Claim 1.

Regarding the transmission of the requested multicast content, *Monteiro* merely discloses that a user must first install User software on his/her computer and register a name and password. (Column 13, lines 9-45). After a successful login by the User, "the User software then immediately sends a Channel Guide Request Object to the Administration Server and a Channel Guide Object is returned." (Column 13, lines 42-45). According to *Monteiro*, the "Channel Guide Request Object" "conveys a request for analytical and descriptive information about an item uniquely identified by the contained moniker." (Table 1, Column 9, lines 12-18). Thus, *Monteiro* only discloses that the user requests a channel upon login. *Monteiro* does not disclose, teach, or suggest "a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis," as recited in Claim 49. Certainly, *Monteiro* does not disclose, teach, or suggest "authenticating access privileges of the user to the multicast channel by determining if the selected IP multicast channel is within a bundle of IP multicast channels offered for receipt by the user as a multicast package on a subscription basis" and "disallowing the request in response to determining that the selected IP multicast channel is not within the bundle of IP multicast channels," as recited in Claim 49. Accordingly, Applicants submit that Claim 49 is allowable over the prior art of record.

For at least these reasons Applicants respectfully request reconsideration and allowance of Claim 49.

## CONCLUSION

Applicants have made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons, and for other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicants, at the Examiner's convenience at (214) 953-6809.

The Commissioner is hereby authorized to charge $210.00 for an additional independent claim and any other fees or credits to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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